



Field Advisory Services (FAS)

FASTTRACK

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Department of Labor Issues New Rules for Fair Labor Standards Act Exemptions; OPM Review Is Pending

Classification and Pay

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In March 2003, the Department of Labor (DoL) proposed a major revision of its 50-year old rules governing exemptions from the Fair Labor Standards Act (FLSA). The proposal generated an outpouring of comments and concerns from many sources. In response, DoL substantially revised its proposal. The new rules were published in the *Federal Register* in April 2004 and are effective as of August 23, 2004. These rules apply to all private and public sector employees, **except** Federal employees.

The exemption criteria for Federal employees are found in title 5, Code of Federal

Regulations (CFR), Part 551, Pay Administration Under the Fair Labor Standards Act. These criteria are similar to, but not the same as, the DoL criteria. Authority to revise the Federal regulations is delegated to the Office of Personnel Management (OPM).

OPM is reviewing the 5 CFR 551 provisions to determine whether any changes are needed in the Federal exemption criteria for consistency with the new DoL regulatory provisions. There will be no impact on the Federal workforce until OPM amends 5 CFR 551 to conform to the rules issued by DoL. While we do not anticipate significant changes, DoD will have an opportunity to comment if OPM proposes revisions to 5 CFR 551.

Government-wide Student Loan Repayment Program Gains Momentum; DoD Program Soars

Classification and Pay

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Each year, OPM reports to Congress on Federal agency use of the student loan repayment program. The report contains the number of employees selected to receive this benefit, the job classification of the recipients, and the cost to the Government of the loan repayments. This year's report, "Federal Student Loan Repayment Program Fiscal Year 2003," is on the OPM website at <http://www.opm.gov/oca/pay/StudentLoan/html/fy03Report.asp>.

The report shows a significant Government-wide increase in the use of the incentive over prior years. In Fiscal Year (FY) 2002, a total of 16 Federal agencies provided student loan repayments. That figure increased to 24 in FY 2003. In terms of funding, the program nearly tripled, grow-

ing from \$3.1 million in loan repayments during FY 2002 to \$9.2 million in FY 2003. Participation also grew by a factor of three, as the number of employees receiving the benefit rose from 690 in FY 2002 to 2,077 in FY 2003.

The Department of State accounted for the majority of student loan repayments Government-wide in both years. During FY 2003, State expanded its program to provide more than \$3.2 million in repayments to 660 employees, mostly Foreign Service members at hard-to-fill overseas posts (472 employees, or 72 percent).

The Department of Defense (DoD) reported making student loan repayments on behalf of six employees during FY 2002, but the program soared in FY 2003, when the Department provided benefits worth more than \$1.3 mil-

(Continued on page 2)



"The Library of Congress' Jefferson Building is a fitting tribute to him," says FAS's Mary Olson (see article, page 6).



DoD Student Loan Repayment Program Is One of the Largest

(Continued from page 1)

lion to 469 employees. For FY 2003, the Department had the second largest program in Government in terms of participants. In monetary terms, the DoD program was the third largest, after the \$1.5 million program at the Securities and Exchange Commission.

Although the Department used the repayments on behalf of employees in many different occupations, most repayments (261, or 56 percent) were made on behalf of engineers:

- GS-0830, Mechanical Engineer—100 employees;
- GS-0840, Nuclear Engineer—47;
- GS-0850, Electrical Engineer—19;
- GS-0855, Electronics Engineer—35;
- GS-0861, Aerospace Engineer—18; and
- Engineers in seven other occupational series—42.

The remaining program participants comprised a total of 208 DoD employees (44 per-

cent). Collectively, these employees spanned approximately 60 GS series, mostly professional and administrative. There were 22 program participants in the GS-0346, Logistics Management Series; 21 in the GS-1102, Contracting Series; and fewer than 20 in any of the others.

As stated in the May-June 2004 issue of the *FASTRACK* (issue number 2004-2, page 3), OPM established a new nature of action code 817 (NOAC) to facilitate annual reporting. On June 6, 2004, the CPMS Regionalization and Systems Modernization Division released Patch 53, which provides instructions for student loan repayment documentation and NOAC 817 submission to OPM. Timely transmission of this data by all DoD Human Resource Offices, using Patch 53 procedures, will ensure the Department can more efficiently provide accurate reports to OPM each year.



DoD's student loan repayment program soared in FY 2003, when the Department provided benefits worth more than \$1.3 million.

Diploma Mills Pose a Potentially Serious Threat to Federal Agencies

Defense Leadership & Management Program E-mail us

For several months this year, the issue of diploma mills caught the attention of Congress, the Government Accountability Office (GAO), OPM, other Federal agencies, and the media. The concern about diploma mills highlighted the need for clear and concise guidance on how to check the legitimacy of a Federal job applicant's (or current Federal employee's) education or degree.

OPM has defined diploma mills as:

"Non-traditional schools that are not accredited by accrediting institutions recognized by the Department of Education (DoED). They generally award degrees or certificates with little or no course work completed by the student. These institutions often award degrees based largely on an assessment of the student's life experience or cash payments and may translate those experiences into fraudulent curriculum transcripts, giving a false impression of a structured curriculum. In addition, some organizations simply sell counterfeit degrees, which would also fall into this category" (OPM memo for Department and Agency Heads, May 13, 2004, subject: Strengthening Over-

sight of the Use of Diploma Mill Credentials in Federal Employment, page 1).

The OPM memo emphasizes that diploma mill degrees or credentials may not be used to qualify for Federal jobs or salaries. Additionally, agencies may not send employees to diploma mills for any form of education, cannot reimburse employees for associated tuition, and cannot repay student loans if the degree is from a diploma mill (page 1).

As reported in a September 29, 2003, article in *USA Today*. com, "Diploma Mills Insert Degree of Fraud into Job Market," there are more than 400 diploma mills and 300 counterfeit diploma websites. By conferring bogus degrees, diploma mills pose a potentially serious threat to Federal agencies on several levels. In 2004, GAO investigated diploma mills and found that Federal agencies or departments had spent hundreds of thousands of dollars for tuition payments to diploma mills. Besides mispending tax dollars, Federal workers with bogus degrees can endanger the public by posing as health care workers or even nuclear security technicians.

Is there any solution to the problem of diploma mills? Efforts are currently underway to simplify the process of de-

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Diploma Mill Degrees and Credentials Are Potentially Serious Threat

(Continued from page 2)

testing whether a job applicant or current employee has a bogus degree from a diploma mill. The key is that a legitimate educational institution must have earned accreditation from an agency recognized by the U.S. Department of Education. Earlier this year, Congress asked the Department of Education to compile a list of accredited colleges and universities. Until this list is prepared, three websites offer useful information.

Department of Education: <http://www.ed.gov>. Under "Quick Click" select "accreditation." From this page, look for specific accrediting agencies under the headings, "nationally recognized accrediting agencies" or "regional institutional accreditation agencies". These links contain information on accrediting agencies recognized by the Secretary of Education as reliable authorities concerning the qual-



ity of education or training offered by the institutions of higher education or higher education programs they accredit.

Academic Institutions: The website of the college or university in question is another good source. An accredited institution will typically indicate its accrediting agency. You can then confirm that the accrediting agency is legitimate by finding it listed on the Department of Education website mentioned above.

OPM website: <http://opm.gov>. A search for "diploma mills" will bring up several pages containing valuable information on this issue.

Using such resources will help employees, managers, and human resources specialists determine whether a college or university is an accredited institution or a diploma mill.

Do's and Don'ts for Political Activities by Federal Employees

Labor and Employee Relations

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Under the Hatch Act and related statutes and regulations, civilian employees are subject to certain limitations on political activities. Most DoD civilian employees **may**:

- Be candidates for public office in nonpartisan elections;
- Register and vote as they choose;
- Assist in voter registration drives;
- Express opinions about candidates and issues;
- Contribute money to political organizations;
- Attend political fundraising functions;
- Attend and be active at political rallies and meetings;
- Join and be an active member of a political party or club;
- Sign nominating petitions;
- Campaign for or against referendum questions, constitutional amendments, and municipal ordinances;
- Campaign for or against candidates in partisan elections;
- Make campaign speeches for candidates in partisan elections;
- Distribute campaign literature in partisan elections; and
- Hold office in political clubs or parties.

Most DoD civilian employees **may not**:

- Use official authority or influence to interfere with an election;

- Solicit or discourage political activity of anyone with business before their agency;
- Solicit or receive political contributions (this may be done in certain limited situations by Federal labor or other employee organizations);
- Be candidates for public office in partisan elections;
- Engage in political activity while on duty, in a Government office, wearing an official uniform, or using a Government vehicle; or
- Wear partisan political buttons on duty.

The following are subject to additional restrictions:

- Officials appointed by the President with the advice and consent of the Senate;
- Career members of the Senior Executive Service;
- Members of the contract appeals boards; and
- All employees of the National Security Agency (NSA), Defense Intelligence Agency (DIA), and National Geospatial-Intelligence Agency (NGA).

Employees with questions concerning participation in political activities should contact their Component's legal office.





Federal Employees' Group Life Insurance (FEGLI) Program Celebrates 50th Anniversary with September Open Season

Benefits and Entitlements

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The first FEGLI open season in five years will be held September 1-30, 2004, to celebrate the program's fiftieth anniversary, according to a recent OPM announcement.

The FEGLI program consists of basic life insurance coverage and three options that include coverage for up to five times an employee's base salary plus coverage for family members. In most cases, a new Federal employee is automatically covered by basic life insurance. The types and amounts of coverage available are not changing.

During open season, Federal and Postal employees in eligible positions may enroll in the program or increase or change current coverage without having a physical or answering any questions about their health. The earliest that newly elected coverage will be effective is September 1, 2005. Before open season begins, OPM will set up a special FEGLI 2004 website containing an election form and program information.

The FEGLI program was established on August 29, 1954. It is the largest group life insurance program in the world, covering over 4 million Federal employees and retirees as well as many of their family members.

Merit Systems Protection Board (MSPB) Administrative Judge Upholds DoD Five-Year Limit on Foreign Area Employment

Staffing and Development

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On June 24, 2004, an MSPB Administrative Judge upheld the removal of an overseas employee for failure to accept a valid job offer within the continental United States after serving more than five years in a foreign area. The offer for continued employment was made through the DoD Priority Placement Program (PPP).

The case (*Hoffmann v. Department of the Navy*, MSPB Docket Number SE-0752-04-0073-I-1, initial decision, slip op. (August 9, 2004)) involved a GS-2210-12 Supervisory Information Technology Specialist. After a series of tour extensions, the appellant was informed in December 2000, that a further extension could not be granted.

Although the appellant had no rotation agreement in connection with his overseas employment, as a career employee he was subject to the five-year foreign area rotation policy (DoD Directive 1400.6, DoD Civilian Employees in Overseas Areas, paragraph 3.3). As such, management initiated steps to return the appellant to the United States.

Since the appellant did not hold return rights to a position in the United States, he was registered in the PPP in March 2001. He submitted a poorly written PPP application in what may have been an attempt to avoid qualifying for stateside jobs. The registering personnel office ultimately required him to revise his application in order to

remain in PPP. The appellant complied, and in 2002, he received a job offer (PPP match) for a GS-2210-12 Information Technology Specialist position with the Department of the Army. The appellant claimed to be unqualified, but the losing and gaining activities, as well as the CPMS Civilian Assistance and Re-Employment (CARE) Division, found him fully qualified for the position. He declined the offer, compelling the Agency to remove him.

The Administrative Judge made the following findings:

- A charge of failure to accept a job offer after expiration of an overseas tour is "essentially identical to a charge of failure to accept a directed reassignment" (page 4);
- The absence of a rotation agreement does not preclude the Agency from enforcing the DoD five-year rule when a further tour extension is no longer justified (page 6); and
- The Agency can require an employee to submit an adequate PPP application to ensure proper and accurate registration (page 10).

The appellant has filed a timely petition for review of this initial decision; full Board review is pending. Although this case only involves an initial decision at this time, the Administrative Judge's findings clearly reaffirm the legitimacy of the Department's five-year limitation on foreign area employment and management's right to enforce that policy through directed reassignment under the PPP.





New Data Field Supports Military to Civilian Conversion Reporting

Regionalization and Systems Modernization

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The National Defense Authorization Act for Fiscal Year 2004 (FY04), Section 1101, (Public Law 180-136, 117 Stat. 1392-1629), November 24, 2003, authorizes changes in the DoD civilian human resources system that will provide DoD sufficient flexibility to implement military to civilian position conversions. Program Budget Decision 712, Military to Civilian Conversions, December 24, 2003, requires the Military Services to convert 10,000 military positions to DoD civilian and/or contract performance positions in FY04 and convert an additional 10,070 in FY05 (20,070 cumulative). The Military Services must be able to track the converted positions to meet reporting requirements and must be able to distinguish which new civilian positions are established to meet the FY04 and FY05 targets.

The military to civilian conversion program includes appropriated fund positions. At present, local national and non-appropriated fund positions are not included in this program, and Army Guard and Reserve positions are not being considered for military to civilian conversion.

To incorporate the required conversions, the Defense Civilian Personnel Management Service (CPMS) has established a new data field in the Defense Civilian Personnel Data System (DCPDS) called "Mil to Civ Conversion" in the Position area. Within this field are three new data elements:

- POSN MIL TO CIV CONV (enter Y if the position is part of the military to civilian conversion program);
- FY CONV CREDIT (enter the fiscal year the position is converted from military to civilian); and
- DATE POSITION FILLED (enter the date the position is filled for the first time).

The data in DCPDS will be fed to the Defense Manpower Data Center for reporting purposes. Additionally, Components should describe their progress on the military to civilian conversions as part of their quarterly Presidential Management Agenda cascade report. Senior management officials will track the effectiveness of the military to civilian conversions through these reports.

Defense Enrollment Eligibility Reporting System (DEERS) "Lock Down"

Regionalization and Systems Modernization

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Effective July 1, 2004, each new appropriated fund U.S. employee's personnel data must be electronically received in DEERS before an employee is issued a common access card (CAC). The manual process of entering employee data into DEERS has been "locked down" and replaced by an automated data feed from DCPDS. This data feed may take up to 48 hours to complete, so supervisors will have to make provisions to ensure new employees can enter the installation and the work center while they await their CAC card. The "lock down" does not affect nonappropriated fund (NAF) or foreign national employees at this time. Provisions for these employees will be addressed at a later date.

The "lock down" makes it imperative that accession personnel actions are input into DCPDS in a timely manner. Inputting actions in advance of the effective date will help

ensure timely data flow to DEERS. However, it will not eliminate the 24- to 48-hour delay, because a new employee's data will not flow to DEERS until the accession personnel action has processed in DCPDS.

If a new employee is not in DEERS, personnel offices should first ensure the personnel action is processed in DCPDS prior to attempting to obtain a CAC card. If 48 hours have elapsed since the accession action was processed, personnel offices may then contact the Defense Manpower Data Center (DMDC) at DMDCIV@OSD.PENTAGON.MIL to begin troubleshooting the problem.

DMDC will also make a "trusted agent" process available to organizations that require the ability to input emergency updates into DEERS. Agencies requiring this capability should contact DMDC at DMDCIV@OSD.PENTAGON.MIL and nominate a "trusted agent" point of contact.

Equal Employment Opportunity (EEO) Courses Offered

The Defense Equal Opportunity Management Institute (DEOMI) mission is to enhance leadership and readiness by fostering equal employment (EO) and equal employment opportunity (EEO) programs and positive human relations through education, training, and research. In sup-

port of this mission, DEOMI conducts civilian EEO courses in such areas as counseling and special emphasis programs, as well as seminars for managers. Information on upcoming courses and schedules may be found at https://www.patrick.af.mil/deomi/EOEEOCourse/CourseIndex_EEO.htm.



CPMS Personnel-ity Profile

From Pierre to Paris: FAS's Mary Olson Enjoys Learning About American History, Other Cultures

A FAS staff member since 1999, Mary Olson hails from Pierre, SD, a town with a population of about 10,000. "It's so small, only the natives know it's pronounced 'peer,'" she says. When Mary was in junior high, her family moved to Stillwater, MN, which she considers her hometown. "Stillwater, on the St. Croix River, is the earliest town established in Minnesota," she notes. "French voyageurs came down the river and settled it in the 1600s." The town is listed on the National Registry of Historic Places.

Speaking of history, Mary says that reading historical non-fiction is a favorite pastime. "Lately, I've read about the Founding Fathers—McCullough's book on John Adams and the one Ellis wrote on Jefferson. I've also read a good deal about the cultures of the Middle East, both historical and political, to further my understanding of the differences among the cultures in that region."

Travel is another of Mary's varied interests. She and her husband celebrated their daughter's 1996 high-school graduation with a trip to Egypt. More recently, during March of this year the family spent a few days in Paris, France. "We were there for a weekend of museum-

hopping. I was really interested in seeing the tapestries of the Cluny museum that were the subject of *The Lady and the Unicorn*," a novel by Tracy Chevalier, who also wrote *Girl with a Pearl Earring*.



Mary has found job satisfaction in the course of a career that spans 10 years as a schoolteacher and 23 years in Government, mainly with the Department of the Army (first in Germany and then at Army Headquarters). She says she is "still looking forward to the challenges" of her position as FAS's resident Compensation Policy Specialist.

"Our current title 5 system has been pieced together over the years," she notes. "For me, the challenge is trying to find the 'spine'—the true basis of efficiency and effectiveness in an organization as it has to do with compensation policies—so that we can make those policies work for employees as well as management." As the Department of Defense develops its 21st century human resources system, such challenges are sure to keep coming Mary Olson's way.

WE'RE ON THE WEB!

<http://www.cpms.osd.mil/fas/index.html>

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CPMS VALUES

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Service to Our People
Savings for Our Nation
Commitment to Quality
Commitment to Duty

CPMS Employment Corner

C PMS job vacancies are posted on the Human Resources Operations Center (HROC) job opportunities web site at <http://www.hr.dla.mil/onjams/splash.htm>.

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